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FM AMEMBASSY TOKYO
TO RUEHC/SECSTATE WASHDC 5271
INFO RHMCSUU/DEPT OF ENERGY WASHINGTON DC

C O N F I D E N T I A L TOKYO 001702

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E.O. 12958: DECL: 06/16/2018
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SUBJECT: JAPAN CONSIDERING CSC RATIFICATION

Classified By: EMIN Robert F. Cekuta, reasons 1.4 b/d

1. (U) Please note action requests in paras 4 and 6.

2. (SBU) Embassy officers delivered points (ref) urging Japan's membership in the Convention of Supplementary Compensation (CSC) to Ministry of Education, Culture, Sports, Science and Technology (MEXT) Atomic Energy Division Deputy Director Akira Tsugita. Tsugita said the GOJ is seriously considering joining the CSC, but first needs to conduct a thorough interagency review. As a result, Tsugita continued, Japan cannot ratify the CSC by the IAEA's General Conference this September.

3. (C) Tsugita went on to point out political and technical challenges Japan must address in order to move ahead with CSC ratification. Noting a need for a strong push within the GOJ to move on the Convention, Tsugita suggested Japanese suppliers could become active because the nuclear liability convention directly affects industrial interests. However, the GOJ has yet to hear from Japan's nuclear manufacturing industry regarding the CSC. He asserted that Japan's nuclear industry is not aware of nuclear liability conventions and suggested GE and Westinghouse industry executives engage their Toshiba and Hitachi counterparts on the issue.

4. (C) Although MEXT is the lead ministry responsible for reviewing the CSC -- nuclear liability falls under MEXT's jurisdiction -- it still needs to secure support from other agencies, principally METI, which is responsible for promoting nuclear development and trade. METI could be instrumental in getting industry to make necessary commitments to the CSC, Tsugita noted. Tsugita said he would appreciate any USG suggestions on forging a strategic partnership between GOJ agencies and the nuclear manufacturing industry to advance the liability convention.

5. (SBU) On the technical side, Tsugita pointed out challenges with the definition of "damage" as stated in the CSC non-paper. Under Japan's current domestic nuclear damage law, "cost preventive measures" are excluded entirely and "environmental damage coverage" also may be excluded depending on interpretation. Tsugita said in an effort to determine how best to handle such gaps, MEXT officials are analyzing whether to modify Japan's current domestic law or draft an entirely new one. The process could take considerable time, he noted.

6. (SBU) MEXT provided the following additional specific questions and comments June 16:

a) We would like to obtain a brief summary on U.S. nuclear power compensation coverage for damages, including the Price-Anderson Act, if available.

b) Did the U.S. revise its domestic law in order to ratify the CSC? If so, could the USG provide documents concerning the kinds of revisions made?

c) We understand the U.S. expects China to join CSC. What

are U.S. views on how China will ratify the liability convention? (Currently, China does not have a domestic nuclear liability act except for administrative documents published as a response from the Chinese State Council.)

d) We understand the U.S. will establish a funding system for the CSC in the next three years. However, some kind of system must have been implemented because the U.S. has already ratified the CSC. If so, we would like to know primary funding sources and how much of the burden is shared?

e) How has the U.S. determined which nuclear-related facilities should be covered under the CSC? The CSC has a special clause to include a small compensation package for small-scale nuclear facilities. Has the U.S. implemented a small compensation system? If so, how has the U.S. defined small-scale nuclear facilities? How will the U.S. secure appropriate funding, which is up to 300 million SDR of public capital?

f) We recognize that the definitions of "impairment of environment" and "measures of reinstatement" in the CSC include broad damages, such as the cost of measures taken to reinstate the environment damaged by a nuclear accident. Is the definition of nuclear damage included in any U.S. domestic law?

g) The CSC stipulates that the measures of reinstatement shall be "approved" by the competent authorities of the State and the law of the State where the damage occurred determines who is entitled to take such actions. Is the action covered in any U.S. current domestic law?

17. (C) Comment: While Japan's eventual ratification of the CSC appears likely, it may require considerable time. MEXT needs sustained cooperation from MOFA and METI. MEXT also wants to work very closely with U.S. technical and legal experts to ensure clear and correct interpretation of certain CSC provisions. Fact-finding sessions between industry and GOJ officials to explore the details of CSC implementation could be beneficial. One positive sign is that MEXT announced a Special Committee on Implementation of Nuclear Liability, comprised of Japanese government officials, academics, industry executives, and lawyers, to meet from June through September 2008 and that the benefits of CSC will be on its agenda. End Comment.
SCHIEFFER